Swain, J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-- X

JOSE NUNEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, SGT. DAVID REILLY (SHIELD NUMBER 4245) and POLICE OFFICER BRIAN LITTLE (SHIELD NUMBER 07155),

Defendants.

-- X

STIPULATION OF SETTLEMENT AND ORDER OF DISMISSAL

11 Civ. 4205 (LTS) (JLC)

WHEREAS, plaintiff Jose Nunez commenced this action by filing a complaint on or about June 21, 2011, alleging violations of his federal civil and state common law rights; and

WHEREAS, defendants City of New York, David Reilly and Brian Little, have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: MAR 13 2012

1. The above-referenced action is hereby dismissed against defendants City of New York, David Reilly and Brian Little, with prejudice, and without costs, expenses, or attorney's fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff Jose Nunez the sum of **ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00)** in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants City of New York, David Reilly and Brian Little, and to release the defendants and any present or former employees and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, Plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the

United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiff agrees to hold harmless the City of New York regarding any liens or past and/or future Medicare payments, presently known or unknown in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendant City reserves the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
March 7, 2012

Steven Seener, Esq.
Seener & Seener, Esqs.
Attorneys for plaintiff
11 Park Place, 10th Floor
New York, NY 10007

By: [signature]
Steven Seener, Esq.

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York, David Reilly and Brian Little
100 Church Street, Rm. 3-203b
New York, New York 10007
(212) 341-0797

By: [signature]
Brian J. Farrar
Assistant Corporation Counsel

SO ORDERED:

[signature]
HON. LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
March 13, 2012